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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Advanced Television Systems
and Their Impact Upon the
Existing Television Broadcast
Service

MM Docket No. 87-268

To: The Commission

**OPPOSITION TO PETITION FOR RECONSIDERATION
OF NATIONAL PUBLIC RADIO**

WCPX License Partnership ("WCPX"), by its counsel and pursuant to Section 1.429(f) of the Commission's Rules, hereby opposes the Petition for Reconsideration of the Fifth Report and Order (FCC 97-116, released April 21, 1997), and Sixth Report and Order (FCC 97-115, released April 21, 1997) in the above-captioned proceeding, filed by National Public Radio ("NPR") on June 13, 1997, to the extent NPR objects to allowing stations operating on NTSC Channel 6 to switch their digital television (DTV) operation back to their NTSC channel at the end of the DTV transition period. In support hereof, WCPX states as follows:

I. INTRODUCTION

WCPX is the licensee of Television Station WCPX, Orlando, Florida ("WCPX-TV"). WCPX-TV has operated on Channel 6 since the 1950's. There are two noncommercial FM ("NCE-FM") stations operating in the Orlando area with whom WCPX has worked successfully to minimize and eliminate the potential for adjacent channel interference. These efforts have

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included entering into working agreements with the two NCE-FM stations, co-locating the stations on the WCPX-TV tower, and having one of the stations use a combined signal from the WCPX-TV antenna.¹ As a consequence of these efforts, WCPX is unaware of any interference complaints regarding its operation of WCPX-TV and the operation of the NCE-FM stations.

On June 13, 1997, WCPX filed a "Petition for Partial Reconsideration of the Sixth Report and Order," requesting, in part, that the Commission use the low band VHF channels (2-6) for DTV. WCPX pointed out that the available engineering data provides no support for the continuing uncertainty about including Channels 2-6 in the core DTV spectrum. WCPX also requested the Commission to clarify that WCPX-TV will be able to switch back to its NTSC Channel 6 assignment to provide DTV service at the end of the transition period.²

NPR also sought reconsideration of the Commission's decision to minimize the use of DTV Channel 6, but it argued that the Commission was not sufficiently restrictive in its decision. NPR essentially requested the Commission to preclude any use of Channel 6 for DTV and reconsider its decision to allow current licensees to switch back to their NTSC channel at the end of the transition if Channel 6 is within the core spectrum and is determined to be appropriate for DTV use.³

¹ In addition to these two NCE-FM stations, there are a number of other NCE-FM stations that serve the Orlando market.

² WCPX also addressed other matters in its Petition for Partial Reconsideration that are not relevant to this pleading.

³ NPR has also addressed the use of DTV Channel 6 in its "Opposition of National Public Radio, Inc. to Petition for Reconsideration of 'Certain Channel 2-6 Licensees,'" filed June 9, 1997 ("NPR Opposition"). The NPR Opposition responded to a "Petition for Reconsideration of Decision Regarding Channels 2-6" filed May 29, 1997, by Certain Channel 2-6 Licensees ("Channel 2-6 Licensee Petition"). Although the discussion in this opposition to NPR's Petition (continued...)

The available evidence does not support NPR's position concerning the ability of stations operating on NTSC Channel 6 to switch their DTV operation to Channel 6 at the end of the transition period. Although WCPX takes no position on NPR's Petition to the extent it expresses concern about new DTV Channel 6 allotments, WCPX opposes NPR's Petition to the extent that NPR seeks reconsideration of the use of the low band VHF channels in general, and NTSC Channel 6 allotments in particular, for DTV operations at the end of the transition period.⁴ The allocation of new DTV Channel 6 assignments involves technical issues and questions that are not present in markets with existing stations operating on NTSC Channel 6 allotments.

Assuming a basis exists for the Commission to minimize new DTV Channel 6 allotments, the reasons for doing so are not applicable to a market with an operating station on NTSC Channel 6, where the television and NCE-FM licensees have worked together to minimize and eliminate the potential for and incidents of adjacent channel interference. There is no technical or other evidence that supports a restriction on the ability of an NTSC Channel 6 licensee to switch its DTV operation back to Channel 6 at the end of the transition period. To the contrary, the available evidence suggests that switching to DTV operations on an NTSC Channel 6 allotment will not increase or create new interference areas but will, more likely, reduce the potential for such interference.

³(...continued)

may address matters raised in NPR's Opposition, the period for filing replies to NPR's Opposition has not expired and WCPX reserves the right to reply to NPR's Opposition accordingly. See 47 C.F.R. Section 1.429(g).

⁴ See NPR Petition at 8.

II. DISCUSSION

The use of Channel 6 for DTV is first dependent on the Commission including the low band VHF channels in the DTV core spectrum. WCPX supports in this regard the Channel 2-6 Licensee Petition. The low band VHF channels possess significantly better propagation characteristics compared to UHF channels. Although Channels 2-6 are subject to higher noise levels than other channels, the results of the Charlotte tests indicate that DTV performs significantly better than NTSC on the low band VHF channels. See WCPX Petition for Reconsideration at 7-8. The combination of better propagation characteristics and better DTV immunity from noise than NTSC supports the Commission's retaining the low band VHF channels as part of the DTV core spectrum.

WCPX's review of the petitions for reconsideration of the Fifth and Sixth Reports and Orders indicates that no party seeking reconsideration has challenged directly the use of the low band VHF channels as part of the DTV core spectrum. Only NPR has challenged directly the use of Channel 6 for DTV based on adjacent channel interference between NTSC Channel 6 and NCE-FM stations.⁵

The issue of interference between Channel 6 and NCE-FM stations is, however, sporadic, i.e., interference that may occur would occur only in certain areas. When the FCC conducted its

⁵ NPR's Petition is addressed primarily to the use of Channel 6, and it does not take a position on the general applicability of the low band VHF channels for DTV. The Brechner Family in its Petition for Reconsideration initially requests the Commission to include Channels 2-51 as the core DTV spectrum. Only if the Commission determines that the core spectrum should include Channels 2-46, in which case the Brechner Family's DTV channel assignments of 47 and 49 would be outside the core, does it request the Commission not to use the low band VHF channels. However, the Brechner Family does not challenge the technical suitability of the low band VHF channels for DTV, and as noted first requests the Commission to include them as part of the core spectrum.

lengthy rule making proceeding to review the assignment and operational characteristics of NCE-FM stations, it found that interference to Channel 6 is not a universal problem, but rather is limited to isolated cases. See Changes in the Rules Relating to Noncommercial, Educational FM Broadcast Stations, 57 RR 2d 107, 111 (1984), modified in part on other grounds, 58 RR 2d 631 (1985). While the Commission received some reports of interference,

... many NCE-FM stations indicated few complaints have been received, and they claimed that most cases were easily rectified with the use of filters at the television receivers. National Public Radio (NPR) conducted a survey of its member stations asking them to define the extent of their interference. The majority believed it to be either non-existent or very limited. ... Noting the relatively few cases of interference with over 1,100 NCE-FM stations on the air, the Commission finds that the restrictive facilities contemplated by the Second Notice are not justified.

57 RR 2d at 111.⁶

When interference does occur it is largely due to television receivers that lack sufficient selectivity to reject a strong NCE-FM signal on adjacent frequencies. See Noncommercial FM Stations, 57 RR 2d at 108, 109. The problem, if and when it exists, is one of interference to the reception of Television Channel 6. It is not a problem of interference caused to NCE-FM stations. When in 1984 and 1985 the Commission promulgated the present Channel 6/NCE-FM interference standards it sought "to permit wide latitude for NCE-FM applicants to 'engineer in' their stations to take advantage of all available interference reducing methods." Id. at 108. See also 47 C.F.R. Section 73.525.

⁶ See also 58 RR 2d at 634 (on reconsideration) ("MAET [Mississippi Authority for Educational Television] in reply to the joint proposal claimed that its field experience indicates that the actual interference experienced is much less than that predicted.")

Whether adjacent channel interference occurs between NTSC Channel 6 and NCE-FM stations is highly dependent on a number of variable factors, including the operating frequency, antenna location, and power and antenna height of the NCE-FM station. As the Commission found in 1984, in many instances no interference exists.⁷ If and when it does occur there are a variety of solutions.⁸ Channel 6 television licensees and NCE-FM licensees, including many NPR affiliates, have for years cooperated to minimize and avoid potential interference, applying one or more of the available solutions appropriate to the particular circumstances. Because the existence of adjacent channel interference is sporadic and in most cases easily rectified, there is no reason for the Commission to impose a blanket prohibition on stations moving their DTV operation to their NTSC Channel 6 assignment at the end of the transition period.

There is no evidence that allowing NTSC Channel 6 licensees to provide DTV service on Channel 6 will have any adverse impact on NCE-FM stations. To the contrary, the limited information currently available indicates that DTV operations on Channel 6 will suffer less potential for interference than current NTSC operations. Additionally, improved receiver designs for DTV televisions should also reduce the potential for interference.⁹ Further, even if the

⁷ See Noncommercial FM Stations, 57 RR 2d at 111.

⁸ See Noncommercial FM Stations, 57 RR 2d at 117.

⁹ When the Commission adopted the current Channel 6/NCE-FM interference protection requirements in Section 73.525, it declined to adopt improved receiver standards despite concurring with the need for such improvements. The Commission noted that such improvements would constitute a "very long-term solution" because consumers would continue to use older televisions that lacked such improvements. It added, however, that if the industry was unable or unwilling to establish its own receiver standards in a reasonable time then the Commission would exercise its statutory authority to set such immunity standards. See Noncommercial FM Stations, 58 RR 2d at 631-632. The implementation of a new DTV service gives the Commission the opportunity to establish from the start, before any DTV receivers reach the market, standards for
(continued...)

Commission went along with NPR's request, there is no assurance that the new uses the Commission would assign to the reclaimed Channel 6 frequencies would not give rise to greater interference problems than the mere possibility of sporadic interference that now exists and with which television and NCE-FM station licensees have considerable experience working together to avoid or minimize.¹⁰

The available information on the relationship of DTV and NCE-FM operations is based on the Charlotte tests of the Grand Alliance HDTV transmission subsystem. Attached hereto is the Technical Statement of Louis R. duTreil, Sr., WCPX-TV's consulting engineer, in which he describes the results of the Charlotte tests related to the Channel 6/NCE-FM issue. Mr. duTreil notes that the Charlotte market lacks an NTSC Channel 6 allotment and has several NCE-FM stations operating at considerably higher power and antenna heights than would exist in a market with an NTSC Channel 6 allotment.¹¹ Despite the presence of these NCE-FM stations, the Charlotte tests found only isolated incidents of interference due to NCE-FM stations in the area, less than what might have been expected particularly given the high powered NCE-FM stations and relatively low power at which the Channel 6 tests were conducted. "If the Charlotte tests

⁹(...continued)

receiver selectivity that would eliminate or minimize potential adjacent channel interference. To the extent NPR requests the Commission to address the issue of receiver immunity standards, see NPR Petition at 7-8, WCPX concurs. The Commission should not let this opportunity go by without acting to maximize the efficient use of the spectrum by minimizing the potential for interference at the beginning of the new DTV service.

¹⁰ In other words, NPR's proposed "solution" may be worse than the "problem."

¹¹ The fact that Charlotte does not have an NTSC Channel 6 allotment also means that the NCE-FM stations in the market have not coordinated their operation or otherwise taken steps to reduce or minimize interference to Channel 6, as has occurred in markets with an operating NTSC Channel 6 station.

prove anything, it is that DTV reception is generally better than NTSC reception, even on VHF Channel 6." Statement of Louis R. duTreil, Sr. at 5. Thus, the Charlotte tests indicate that DTV operations on an NTSC Channel 6 allotment are likely to result in less potential for interference than now exists for NTSC Channel 6 stations.

Particularly in markets such as Orlando, where WCPX and the NCE-FM licensees have worked together for many years to avoid interference, no increased risk of interference will exist if stations are allowed to move their DTV operation to their NTSC Channel 6 assignment at the end of the transition period. Because these stations will continue to operate their NTSC facilities on Channel 6 during the transition, their relationship with the NCE-FM stations in their market will not change. Allowing stations like WCPX-TV, that have taken and continue to take a proactive approach in working with the NCE-FM licensees in its area resulting in no incidents of reported interference, to move its DTV operation back to Channel 6 after the transition will have no adverse impact. To the contrary, the public interest benefits that would result include significantly better propagation for the DTV service on Channel 6 and, based on the Charlotte tests, the possibility of improved operating conditions for NCE-FM stations. It will also minimize the disruption to the viewing public for a station to return, ultimately, to the channel on which the station has built substantial goodwill with its viewers.

This is particularly applicable to WCPX-TV, for which the Commission has assigned DTV Channel 58, which is outside the DTV core spectrum, and will require a further change to an as yet unknown channel if WCPX-TV is not allowed to return to Channel 6. If the Commission is intent on minimizing the use of Channel 6 for DTV, despite the contradictory evidence that no adverse impact will occur in markets with NTSC Channel 6 allotments, the Commission should

at least allow stations such as WCPX-TV that operate on NTSC Channel 6 and received a DTV allotment outside the core to return to Channel 6 for DTV operation when the transition concludes. This limited use of Channel 6 will minimize the disruption that would otherwise result from WCPX-TV (and similarly situated stations) having to make a second DTV transition.

If, however, the Commission ultimately decides to not use the low band VHF channels, including Channel 6, for the DTV core spectrum, those frequencies will not lay fallow. The Commission has stated its desire to use all reclaimed television spectrum for other purposes. See Fifth Report and Order, at ¶6. It is impossible to predict the extent to which such new uses of the spectrum would impact the operation of NCE-FM stations. Indeed, new uses of reclaimed Channel 6 throughout the country may lead to its use in many more markets than currently exists in the television service, with unknown and potentially adverse consequences for NCE-FM stations. Thus, NPR's request that the Commission not use Channel 6 under any circumstance for DTV may have an ultimately negative impact on NCE-FM stations.

III. CONCLUSION

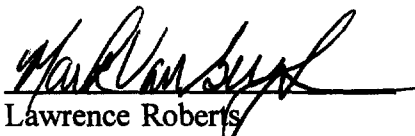
The transition from NTSC to DTV will have a significant impact on all aspects of the television industry. It will impose significant costs on station licensees making the transition who must install new equipment and educate the public as to the location of their new DTV programming. The public will need to purchase new receivers. Established audience viewing patterns will change as everyone tries to adapt to a new and changing market for television programming. It is vitally important that during this process the Commission minimize to the extent possible the costs to the industry and public in making this transition while also maximizing the efficiency of the new DTV service. Imposing unnecessary prohibitions on the

use of low band VHF channels that are inherently more efficient, and restricting the use of NTSC Channel 6 allotments for DTV operation at the end of the transition, will increase the cost of the DTV transition and result in a less efficient DTV service without providing any public benefit.

WHEREFORE, for the foregoing reasons, WCPX respectfully requests the Commission to deny NPR's Petition for Reconsideration to the extent NPR requests the Commission to limit the use of existing NTSC Channel 6 allotments for DTV operation at the end of the transition.

Respectfully submitted,

WCPX LICENSE PARTNERSHIP

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July 18, 1997

ATTACHMENT 1

Technical Statement of Louis R. duTreil, Sr.

TECHNICAL STATEMENT
WCPX LICENSE PARTNERSHIP
TELEVISION STATION WCPX-TV
ORLANDO, FLORIDA

This statement was prepared on behalf of WCPX License Partnership, licensee of television broadcast station WCPX-TV Orlando, Florida in support of comments regarding petitions for reconsideration of the FCC's Fifth and Sixth Reports in MM Docket No. 87-268. This statement responds to the petition filed by *Certain Channel 2-6 Licensees*, and *National Public Radio, Inc.'s (1) Petition for Reconsideration and (2) Opposition to Petition for Reconsideration of "Certain Channel 2-6 Licensees"*.

The petition of *Certain Channel 2-6 Licensees* states simply that the Commission has inappropriately and unnecessarily singled out stations operating NTSC and DTV in channels 2-6 for "wait and see" status regarding the future of their channels in the digital world. WCPX agrees with that assessment and supports the DTV core channels from channels 2 through 46. The Charlotte DTV tests,¹ which were

¹ Field test results of the Grand Alliance HDTV Transmission Subsystem, submitted to SS/WP2 Field Task Force of the Advisory Committee on Advanced Television Service of the Federal Communications Commission by the Association for Maximum Service Television, Inc., Cable Television Laboratories, Inc., Public Broadcasting Service, September 16, 1994.

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erroneously employed by the Commission to initially state that the low VHF channels are unsuitable for DTV, can be summarized with the following sentence taken from Page 35 of the Charlotte report. "All in all, the over-the-air system performance for ATV was better than NTSC." Review of the Channel 6 test results unequivocally support that conclusion.

The petition and opposition filed by NPR pertain to channel 6 and it's relationship to non-commercial educational stations, which are adjacent in frequency to channel 6. The potential interference problems between television channel 6 and NCE stations are widely known and WCPX has cooperated in assisting the establishment of NCE stations in the Orlando area where possible. Currently, one NCE station employs the WCPX tower to support its antenna. Another actually employs the WCPX channel 6 antenna in a diplexed arrangement. WCPX has not experienced any known incidents of interference under these arrangements.

The Charlotte DTV tests are described as showing some incidents of interference between test channel 6 and NCE stations in the area. Throughout the Charlotte test report, the following statement, or one quite similar to it, appears on pages 2, 10, 13 (twice), 14, 20, 30 and 35:

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"The relatively poor performance of the VHF signals relative to UHF is believed to be attributable to the prevalence of impulse noise within the service area, interference from co-channel stations, the presence of low level interference from cable use of channel 6, and/or interference to channel 6 reception from close-by noncommercial educational FM stations."

Also of relevance is the statement on page 11 of the Charlotte report:

"With no regularly assigned channel 6 television broadcast station in the Charlotte vicinity, the inhibitions against placement of noncommercial FM broadcast stations are not present. Consequently, a number of FM broadcast stations in the 88.1 - 91.9 MHz band exist near Charlotte. At a few locations, adjacent channel interference was sufficiently high that channel 6 data could not be adequately measured." (Emphasis added). Thus, despite the presence of a number of NCE stations in the test area, interference from those stations to channel 6 occurred only in isolated areas.

Obviously, Charlotte is not a typical television channel 6 market with respect to NCE stations. There are a number of high powered NCE stations in the area which would not normally be found in a channel 6 market, thereby greatly increasing the potential for interference. In

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spite of this fact, the 1994 Charlotte tests indicate that NCE interference to channel 6 was sporadic. More importantly, the tests indicate that reception of channel 6 DTV coverage was superior to NTSC service. Therefore, allowing a station to switch its DTV operation back to channel 6 after the transition should not impact adversely the DTV operation or the NCE stations operating in the market.

As described in the 1995 Charlotte tests,² new and additional NCE interference was encountered when observing the channel 6 DTV and NTSC test operation. (See Pages VII-3, 4). With regard to the 1995 tests, it is noted that only 40 test sites of the original 199 test sites in the 1994 study were employed; therefore, reliance on the 1994 testing is a superior indicator of channel 6 DTV operation.

Even with an extremely small sample of channel 6 data, the 1995 report concludes:

"In brief, the 1995 field testing of the GA [Grand Alliance] full system prototype supports the conclusion of the 1994 transmission subsystem testing that HDTV service will be available where NTSC service is presently available, and in many instances where NTSC service is unacceptable."

² Digital HDTV Grand Alliance System, Record of Test Results, October 1995

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If the Charlotte tests prove anything, it is that DTV reception is generally better than NTSC reception, even on VHF channel 6. Channels 2 through 6 should be retained for DTV operation, and stations with NTSC channel 6 assignments should be allowed to switch back to channel 6 for DTV operation at the end of the transition period.

Louis R. du Treil

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July 17, 1997

CERTIFICATE OF SERVICE

I, Mark Van Bergh, hereby certify that I have, this 18th day of July, 1997, caused to be served by first class mail except as otherwise noted, a true copy of the foregoing "Opposition to Petition for Reconsideration of National Public Radio" to the following:

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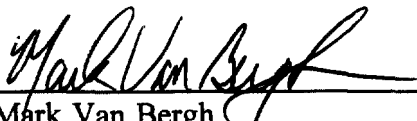
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